

June 11, 2001

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION ON APPEAL OF NOTICE AND ORDER

SUBJECT: Department of Development and Environmental Services File No. **E92C1638B**

RICHARD AZPITARTE
Code Enforcement Appeal

Location: 147 and 153 South 120th Street

Appellant: **Richard Azpitarte**
153 South 120th St.
Seattle, WA 98168
Telephone: (206) 241-4805

King County: Department of Development and Environmental Services,
Code Enforcement Section, *represented by*
Steve Wright
900 Oakesdale Avenue SW
Renton, WA 98055-1219
Telephone: (206) 296-7103
Facsimile: (206) 296-6604

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Deny the appeal
Department's Final Recommendation:	Deny the appeal
Examiner's Decision:	Deny the appeal

EXAMINER PROCEEDINGS:

Hearing Opened:	January 16, 2001
Hearing Closed:	May 28, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Automobile storage
- Commercial storage
- Fire Hazard
- Inoperable vehicles

SUMMARY:

Denies an appeal from code enforcement action regarding the unscreened outdoor storage of vehicles (operable and otherwise) and shipping pallets.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On November 7, 2000 the Department issued a notice and order upon Appellant Richard Azpitarte, citing Appellant Azpitarte with the following code violations:
 - A. Failure to screen or remove wrecked or inoperable vehicles as specified in KCC 23.10.040.
 - B. Accumulation and stacking of scrap wooden pallets creating a fire hazard and eliminating fire separation between houses on these two parcels as required by UFC¹ 1103.3.5.1, UHC² 1001.9 and UHC 1001.11.

The Department, in the November 7, 2000 notice and order, advised appellant Azpitarte that “to bring this property into compliance,” he must screen or remove all wrecked or inoperable vehicles and dismantle the stacks of pallets between the houses and remove them from the property.
2. The owner and Appellant Richard Azpitarte filed timely appeal. In that appeal, he requested authorization to use the pallets to construct fencing. The statement of appeal did not respond to the order regarding automobiles.
3. The essential facts in this case are uncontested:
 - A. The Azpitarte property comprises two parcels totaling approximately 19,950 square feet. The property is classified R-6 (single-family residential; base density six dwelling units per acre). The property is located in unincorporated King County, approximately one block east from First Avenue South, north from Burien and south from the “Tophat District”.

¹ Uniform Fire Code

² Uniform Housing Code

- B. Over 30 automobiles were parked on the subject property at the time of citation. However, the Department brings this action only against approximately one-half dozen automobiles that are not operable. The Department recommends allowing Appellant Azpitarte to construct a conventional fence (which may use pallet wood as the raw material) or the removal of inoperable vehicles. Appellant Azpitarte agreed to this recommended solution and asked for additional time to achieve compliance. That additional time was granted from January 16, 2001 to May 28, 2001—approximately five months.
 - C. The accumulation of pallets, stacked or otherwise, on the subject property constitutes a fire hazard. The design/construction of wooden pallets provides ample air passage through/about the wood in a manner which makes them ideal for burning. This determination has been reached in Departmental consultation with the King County Fire Marshall. For this reason, the Department also seeks that surplus pallets on the property—those pallets not required for fence construction—be disassembled and neatly stacked a suitable distance from any residential structure. Appellant Azpitarte also agreed to this request.
 - D. The fencing solution is necessary because the parties agree that a solution is required which will preclude the need for future enforcement actions. By constructing the fence in a manner generally described by Exhibit No. 4 of this hearing record, Appellant Azpitarte should be able to create a storage area for any future vehicles which he may bring onto the property which may be inoperable.
 - E. While the Exhibit No. 4 drawing depicts a general location for the fenced area (generally west from the long shed located on the eastern-most of the two parcels), the ultimate determination of the fence location must be based upon its success in blocking visibility from other neighboring properties and public right-of-way. The purpose of the fence is to screen views of the inoperable vehicles from the public right-of-way (120th Street and 2nd Avenue South) and from neighboring properties, as required by code.
 - F. The governing regulations in this review are KCC 23.10.040 regarding vehicles and UFC 1103.3.5.1, UHC 1001.9 and UHC 1001.11 regarding fire hazards.
4. The examiner provided the Appellant three continuances for the purpose of accommodating his efforts to comply. By April 19, 2001 code enforcement officer Steve Wright reported:
- Mr. Azpitarte has dismantled about 300 pallets and loaded the rest onto auto transport trucks and one trailer. He is considering whether to transport them off the property himself or hire a demolition dumpster to dispose of the balance of the pallets. He needs to sell a couple of cars to afford the dump fees.
- Mr. Wright reported further:
- He has not begun any work on the screening fence but has devised a method of using some of the remaining pallets and salvaged building materials to complete a fence. He plans to start the fence this weekend to screen the backyard as seen from the north side.

On the basis of that next progress report the examiner entered the third notice of continuance which set a May 24, 2001 deadline and stated:

If full compliance is not reported to this office by that date [May 24, 2001], the examiner's final decision will be entered.

To this date, no report of compliance has been received from either appellant Azpitarte or code enforcement officer Wright. Although appellant Azpitarte requested the three continuances in order to achieve compliance, compliance has not been achieved.

CONCLUSIONS:

Eighteen months after service of notice and order upon the appellant and six months after the examiner first granted continuance to allow the appellant opportunity to comply, compliance has not yet been achieved. The facts contained in the findings above constitute a preponderance of evidence that appellant Richard Azpitarte continues to maintain the subject property in violation of KCC 23.10.040 regarding vehicles and UFC 1103.3.5.1, UHC 1001.9 and UHC 1001.11 regarding fire hazards. Complete compliance is overdue.

DECISION:

The appeal is DENIED.

ORDER:

Appellant Azpitarte shall correct all violations **no later than July 11, 2001** or shall incur an initial civil penalty for each unresolved violation in the amount of \$1,200 for violation no. 1 (failure to screen or remove wrecked or inoperable vehicles) and \$800 for violation no. 2. (accumulation and stacking of scrap wooden pallets creating a fire hazard and eliminating fire separation between houses).

If appellant Azpitarte fails to comply with this order **by August 13, 2001**, he shall incur an additional civil penalty for each unresolved violation in the amount of \$1,800 for violation no. 1 and \$1,200 for violation no. 2.

If appellant Azpitarte fails to comply with this order **by August 27, 2001**, he shall incur another additional civil penalty for each unresolved violation in the amount of \$2,400 for violation no. 1 and \$1,600 for violation no 2.

Nothing in this order shall be construed as limiting either the prosecuting attorney's office or the Department of Development and Environmental Services from prosecuting this matter in any other manner provided by law.

ORDERED this 11th day of June, 2001.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 11th day of June, 2001, to the following parties and interested persons:

James & Verla Graham
26252 SE 216th St
Maple Valley WA 98038

Paul Allen
KCDOT/Roads Division
MS-KSC-TR-0222

Roger Bruckshen
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Pursuant to Chapter 20.24, King County Code, the King County Council has directed that the Examiner make the final decision on behalf of the County regarding code enforcement appeals. The Examiner's decision shall be final and conclusive unless proceedings for review of the decision are properly commenced in Superior Court within twenty-one (21) days of issuance of the Examiner's decision. (The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.)

MINUTES OF THE JANUARY 16, 2001 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E92C1638B – RICHARD AZPITARTE:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Steve Wright. Participating in the hearing and representing the Appellant was Richard Azpitarate. There were no other participants in this hearing.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 DDES staff report to the Hearing Examiner, dated January 16, 2001
- Exhibit No. 2 Copy of Notice & Order, issued November 7, 2000
- Exhibit No. 3 Copy of the Azpitarate appeal
- Exhibit No. 4 Conceptual sketch of Azpitarate property layout, drawn by Steven Wright
- Exhibit No. 5 Status report submitted by Mr. Wright, dated April 19, 2001
- Exhibit No. 6 Mr. Azpitarate's response to Mr. Wright's status report
- Exhibit No. 7 Notice of continuance, dated January 17, 2001
- Exhibit No. 8 Notice of continuance, dated March 12, 2001
- Exhibit No. 9 Third notice of continuance, dated April 23, 2001
- Exhibit No. 10 Copy, King County Code, Chapter 23.10, dated 12-95
- Exhibit No. 11 Copy, 1997 Uniform Housing Code, Chapter 10
- Exhibit No. 12 Copy, 1997 Uniform Housing Code, Chapter 1103.3.5.1